

DEPARTMENT OF THE TREASURY  
DIVISION OF TAXATION

Disabled Veterans/Deceased Servicepersons Real Estate Tax Deduction

Proposed new rules: N.J.A.C. 18:27-1.1 through 18:27-3.11

Authorized by: Maureen Adams, Acting Deputy Director, Division of Taxation

Authority: N.J.S.A. 54:4-8.19

Proposal Number: PRN

Submit comments by July 14, 2006, to:

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The agency proposal is as follows:

### Summary

Article 8, section 1, paragraph 3 of the New Jersey Constitution permits the Legislature to allow veterans and their surviving spouses a deduction from real and personal property taxes assessed. Enabling legislation was enacted pursuant to this mandate, P.L. 1963, c.171 as amended (N.J.S.A. 54:4-8.10 et seq.) as part of the general tax act.

Initially this benefit appeared as a \$500.00 exemption of assessed valuation but was changed to a \$50.00 dollar property tax deduction amount by the Legislature recognizing that the benefits varied from municipality to municipality because of disparity in ratios of assessed to true value.

In 1999, a State constitutional amendment increased the deduction from \$50.00 to \$100.00 for 2000, \$150.00 for 2001, \$200.00 for 2002 and \$250.00 per year, thereafter.

Reference is made to early regulations, promulgated between the years 1951 and 1968, but they never became part of the New Jersey Administrative Code. This proposal is intended to fill the existing void with respect to uniform rules governing the administration of the veteran's property tax deduction.

In addition, Hennefeld & O'Dell vs. Township of Montclair, 22 N.J.Tax 166 (Tax Ct. 2005), extended full tax exemption benefits to disabled war veterans who are same sex registered domestic partners in order to carry out the statutory scheme and public policy enunciated in the Domestic Partnership Act, N.J.S.A. 26:8A-1 *et seq.* However, Hennefeld explicitly found the Act to be non-exclusive of tax benefit rights not expressly

included in the Act. Therefore, it is within the responsibility of the Director, Division of Taxation, to achieve uniformity and equality of treatment in assessment and in applying the deduction.

Proposed N.J.A.C. 18:27-1.1 sets forth definitions of the following words and phrases needed for eligibility determinations: “Active service in time of war,” “armed forces,” “assessor,” “collector,” “cooperative,” “director,” “domestic partner or partnership,” “domicile,” “honorably discharged or released under honorable circumstances from active service in time of war,” “mutual housing corporation,” “owner of the legal title to property,” “pretax year,” “resident,” “serviceperson,” “surviving spouse,” “surviving domestic partner,” “tax year,” “veteran” and “veteran’s deduction.”

Proposed N.J.A.C. 18:27-2.1 provides that veterans or the unmarried surviving spouses or domestic partners (all references to “domestic partners” means “registered domestic partners” within the meaning of N.J.S.A. 26:8A-1 *et seq.*) of such veterans are granted a property tax deduction on their real and personal property in which they have a legal interest.

Proposed N.J.A.C. 18:27-2.2 sets forth the conditions by which a veteran, surviving spouse or domestic partner may qualify for the property tax deduction.

Proposed N.J.A.C. 18:27-2.3 provides that if the surviving spouse remarries or domestic partner enters a new registered domestic partnership, they lose the deduction.

Proposed N.J.A.C. 18:27-2.4 provides that the claimant veteran, surviving spouse or domestic partner must all be residents of New Jersey to qualify for the deduction.

Proposed N.J.A.C. 18:27-2.5 reiterates that eligibility for the deduction is predicated on the veteran having been honorably discharged or released from full time

active duty under honorable circumstances. The rule further provides that a veteran who remains in the armed forces cannot qualify for the deduction, but a veteran who once received the requisite discharge and later re-enters the armed forces, does not lose a deduction previously granted.

Proposed N.J.A.C. 18:27-2.6 provides that a disenrollment certificate or a form of release terminating temporary service or deferring military induction, or a clemency discharge, does not meet the qualifications for an honorable discharge for exemption eligibility.

Proposed N.J.A.C. 18:27-2.7 lists the branches of the armed forces of the United States to which a qualifying veteran must have belonged, based on information provided by the New Jersey Department of Military and Veterans Affairs.

Proposed N.J.A.C. 18:27-2.8 lists those organizations and individuals that are not considered part of the armed forces based on information provided by the New Jersey Department of Military and Veterans Affairs.

Proposed N.J.A.C. 18:27-2.9 sets forth the terms by which real property ownership is eligible for deduction status by a claimant. A claimant may be entitled to a proportionate share of the deduction as a tenant in common.

Proposed N.J.A.C. 18:27-2.10 provides that a vested life estate in real property meets the prerequisite of a qualifying ownership interest.

Proposed N.J.A.C. 18:27-2.11 provides the deduction to an otherwise qualified claimant who is a purchaser under an executory contract of sale who is in possession of land to which the deduction is to apply.

Proposed N.J.A.C. 18:27-2.12 provides that certain tenant shareholders in cooperatives (co-ops) or mutual housing corporations may be entitled to the deduction based on their proportionate share of taxes.

Proposed N.J.A.C. 18:27-2.13 provides for eligibility for the deduction apply to real property where title is held by a partnership to the extent of the eligible claimant's interest in the partnership.

Proposed N.J.A.C. 18:27-2.14 provides for eligibility to a guardian, trustee, committee, conservator or other fiduciary for any persons otherwise qualified for the tax deduction.

Proposed N.J.A.C. 18:27-2.15 states that real property held by a corporation is not eligible for the deduction except for tenants who are shareholders of stock in cooperatives or mutual housing corporations.

Proposed N.J.A.C. 18:27-2.16 provides that the deduction may be applied in any proportion to the real and/or personal property of the claimant.

Proposed N.J.A.C. 18:27-2.17 provides that once a deduction is granted, it remains in effect from year to year without the need for claimant's refilling, subject to the municipal tax assessor requesting additional information.

Proposed N.J.A.C. 18:27-2.18 provides that the deduction may be applied to taxes due on added or omitted assessments.

Proposed N.J.A.C. 18:27-2.19 makes clear that there is no provision in statutory law for apportionment of the veteran's deduction upon sale of a property, although the individual parties to the real estate transaction are not prohibited from negotiating an adjustment of the deduction at the closing settlement.

Proposed N.J.A.C. 18:27-2.20 provides that there may be only one full deduction of \$250 for a claimant except where the claimant is also eligible for a deduction as a qualified surviving spouse or surviving domestic partner of a veteran or serviceperson. In that case, two deductions of \$250 each for a total of \$500 may be allowed.

Proposed N.J.A.C. 18:27-2.21 provides that a claimant who is also age 65 years or over and/or permanently and disabled or a surviving spouse or domestic partner, age 55 years or over, the claimant may receive deductions for both categories.

Proposed N.J.A.C. 18:27-2.22 provides that the deduction shall be in addition to any other veteran deduction or exemption to which the claimant may also be eligible.

Proposed N.J.A.C. 18:27-2.23 requires that an untimely filing with the assessor of a claim for the deduction will result in the loss of eligibility for the particular year. Retroactivity is not allowed.

Proposed N.J.A.C. 18:27-2.24 provides that where an approved deduction exceeds taxes already paid, the municipal governing body may permit a refund, without interest upon request by the claimant, but no refund may be granted for any prior tax year in the absence of a prior completed application on file.

Proposed N.J.A.C. 18:27-2.25 provides an appeal from the disposition of a claim for the veteran's deduction in the same manner as is provided for appeals from assessments generally.

Proposed N.J.A.C. 18:27-3.1 requires that all claims for exemption be submitted in writing to the assessor on forms V.S.S., and supplemental V.S.S., if applicable, as approved by the Director, Division of Taxation, and supported by attached photostatic

copies of documents necessary to the proof of all conditions prerequisite to entitlement for deduction.

Proposed N.J.A.C. 18:27-3.2 requires the claimant to submit sufficient documentation, more fully described in proposed N.J.A.C. 18:27-3.3, to support the claim for the deduction which should be attached to each claim and retained by the assessor. The rule further sets out the filing time requirements and refund procedures where the deduction exceeds the property taxes already paid.

Proposed N.J.A.C. 18:27-3.3 sets forth the documentation that the claimant needs to show residency and eligibility for the deduction.

Proposed N.J.A.C. 18:27-3.4 sets forth the documentation that the claimant needs to show that the veteran received an honorable discharge or release under honorable circumstances, from active duty during a time of war or from a peacekeeping mission after serving the requisite amount of time. In the event that a surviving domestic partner is not able to obtain a DD-214 form from the United States Department of Veteran's Affairs, other documentation showing the above facts may be acceptable, including a notarized affidavit establishing the requisite facts called for in the proposed rule.

Proposed N.J.A.C. 18:27-3.5 reiterates that only an "honorable discharge" or "release under honorable circumstances" will qualify in support of all claims for the deduction.

Proposed N.J.A.C. 18:27-3.6 provides that a surviving registered domestic partner may seek the assistance of the New Jersey Department of Military and Veterans Affairs in obtaining any necessary documentation from the United States Department of Veterans Affairs so as to qualify for the veteran's deduction, where necessary.

Proposed N.J.A.C. 18:27-3.7 provides that a claim for deduction must include documentation such as a deed, executory contract for property purchase, probated will, or trust document, showing that the applicant owned a freehold interest to the property for which the deduction is requested.

Proposed N.J.A.C. 18:27-3.8 requires that a surviving spouse/domestic partner must prove marriage or a registered domestic partnership to the deceased veteran or serviceperson, through whom the claim is made.

Proposed N.J.A.C. 18:27-3.9 provides that a deduction once granted remains in effect indefinitely, although an assessor, at any time, may require any veteran deduction claimant to file a new application to determine whether any change has taken place with regard to residency, property ownership, marital/domestic partnership status in the case of claims by the surviving spouses/domestic partners of servicepersons or veterans.

Proposed N.J.A.C. 18:27-3.10 permits the Director to dispense with a sworn oath in the signing of applications for deduction, although each assessor or collector and his duly assigned assistants are authorized to take and administer the oath on any claim for the veteran's property tax deduction on which there is to be no charge.

Because the Division has provided a 60 day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.



### Social Impact

The proposed rules assure that the processing of the claims of veteran property tax deduction claimants will be performed uniformly by providing standards and guidelines for use by local tax officials in carrying out the expressed desires of New Jersey citizens for those veterans who made extreme sacrifices in defense of their country. By implementing existing statutory and case law, the rules assure that qualified veterans will be relieved of part of the burden of property taxation by use of uniform property tax deduction procedures which apply equally to them and their surviving spouses and registered domestic partners, in keeping with New Jersey's broad public policy initiatives.

### Economic Impact

The proposed rules are expected to have no adverse economic impact in and of themselves, because they primarily state and implement the basic requirements of the statutes pertaining to veterans real property tax deductions, N.J.S.A. 54:4-8.10 et seq. On the contrary, with increases in the categories of coverage, the economic effects will be positive on the class of individuals affected. While the State supports the cost of this benefit, any economic impact on communities due to the deduction, including domestic partnership status will also be minimal because of the very small part of the general population to which the benefit applies. It is not expected that the Division will require a staff increase or other resources to carry out its responsibilities.

### Regulatory Flexibility Statement

The proposed rules do not impact small businesses as defined in N.J.S.A. 52:4B-16 et seq., in that they relate only to real property owned by a veteran claimant and are directed to local property tax officials for instructional purposes. Accordingly, the rules will not have any effect on reporting, record-keeping, or other compliance requirements on small businesses as the term is defined in that statute.

### Federal Standards Statement

The proposed rules do not contain requirements that exceed any requirements imposed by federal law. The rules represent policies of the State of New Jersey regarding implementation of N.J.S.A. 54:4-8.10 et seq., that are independent of federal requirements or standards. Accordingly, no federal standards analysis is required.

### Jobs Impact

The Division does not anticipate that any jobs will be generated or lost as the result of the adoption of the proposed new rules and regulations.

### Agriculture Industry Impact

The proposed new rules will have no impact on the agriculture industry.

### Smart Growth Impact

The proposed new rules will not have an impact on the growth, development or redevelopment of the State's urban or suburban areas with regard to existing or proposed land use, protection of open space or transportation systems. Therefore, the rules will not impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

Full text of the proposed rules follows:

## CHAPTER 27

### \$250 PROPERTY TAX DEDUCTION FOR VETERANS, SURVIVING SPOUSES OF VETERANS, SURVIVING SPOUSES OF SERVICEPERSONS, SURVIVING REGISTERED DOMESTIC PARTNERS OF VETERANS AND SURVIVING REGISTERED DOMESTIC PARTNERS OF VETERANS OF SERVICEPERSONS

#### SUBCHAPTER 1. DEFINITIONS

##### 18:27-1.1 Words and phrases defined

(a) The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. Use of masculine gender pronoun/adjective is intended to include both genders throughout this chapter.

1. "Active service in time of war" means active service at some time during one of the following periods ("peacekeeping missions" are noted with an asterisk):

MISSION	INCEPTION	TERMINATION
Operation Northern/Southern Watch*	August 27, 1992	Effective tax year 2006
Operation Iraqi Freedom*	March 19, 2003	Ongoing
Operation Enduring Freedom*	September 11, 2001	Ongoing
"Joint Endeavor/Joint Guard" Bosnia & Herzegovina*	November 20, 1995	June 20, 1998
"Restore Hope" Mission Somalia*	December 5, 1992	March 31, 1994
Operation "Desert Shield/ Desert Storm" Mission*	August 2, 1990	February 28, 1991
Panama Peacekeeping Mission*	December 20, 1989	January 31, 1990
Grenada Peacekeeping Mission*	October 23, 1983	November 21, 1983

Lebanon Peacekeeping Mission*	September 26, 1982	December 1, 1987
Vietnam Conflict	December 31, 1960	May 7, 1975
Lebanon Crisis of 1958*	July 1, 1958	November 1, 1958
Korean Conflict	June 23, 1950	January 31, 1955
World War II	September 16, 1940	December 31, 1946
World War I	April 6, 1917	November 11, 1918

i. Peacekeeping missions require a minimum of 14 days service in the actual combat zone except where service-incurred injury or disability occurs in the combat zone, then actual time served though less than 14 days, is sufficient for purposes of property tax deduction. The 14 day requirement for Bosnia and Herzegovina may be met by services in one or both operations for 14 days continuously or in the aggregate. For Bosnia and Herzegovina combat zone also includes the airspace above those nations.

2. "Armed Forces" means the land, air and sea forces established by State or Federal laws as applicable.

3. "Assessor" means the assessor or deputy assessor of a taxing district charged with the duty of assessing real and personal property for the purpose of general taxation.

4. "Collector" means the collector or deputy collector or receiver on his behalf of taxes of a taxing district charged with the duty of collecting real property taxes for the purpose of general taxation.

5. "Cooperative" means a housing corporation or association incorporated or organized under the laws of New Jersey which entitles a shareholder thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association.

6. “Director” means the Director of the Division of Taxation.

7. “Domestic Partner” means the lawful domestic partner registered under N.J.S.A. 26:8A-1 et seq., of a veteran or serviceperson defined elsewhere in this subsection where the property ownership is as joint tenants with right of survivorship.

8. “Domicile” is any place an individual regards as his permanent home, the place he intends to return to after a period of absence. A person has only one domicile, although he may reside in more than one place. Domicile, once established, continues until the individual moves to a new location with the intent to make it his permanent home and to abandon his prior domicile. Moving to a new location for less than 12 months, does not change domicile if the clear intent is to return to New Jersey.

9. “Honorably discharged or released under honorable circumstances from active service in time of war” means and includes every form of separation from active, full-time duty with military or naval pay and allowances in some branch of the Armed Forces of the United States in time of war, other than those marked “dishonorable,” “undesirable,” “bad conduct,” “by sentence of general court martial,” “by sentence of summary court martial” or similar expression indicating that the discharge or release was not under honorable circumstances. A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the armed forces rendered on a voluntary and part-time basis without pay, or a release from or deferment of induction into the active military or naval service shall not be deemed to be honorably discharged.

10. “Mutual housing corporation” means a corporation not-for-profit incorporated under the laws of New Jersey on a mutual or cooperative basis within the

scope of section 607 of the “National Defense Act,” which acquired a National Defense Housing Project pursuant to that act.

11. “Owner of legal title to the property” means possession of a legal interest in the property, such that the owner has the right to convey title as grantor.

12. “Pretax year” means the particular calendar year immediately preceding the “tax year.”

13. “Resident” means one legally domiciled in the State of New Jersey. Seasonal or temporary residence in the State, of whatever duration, shall not constitute domicile in the State for purposes of the deduction. Absence from the State for a period of 12 months shall be prima facie evidence of abandonment of domicile in this State. The burden of establishing legal domicile in the State shall be upon the claimant.

14. “Serviceperson” means a citizen and resident of this State who has performed in active service in time of war in a branch of the Armed Forces of the United States and who dies while on active duty.

15. “Surviving domestic partner” means the lawful surviving registered domestic partner of a veteran or serviceperson, while a resident of this State, who has not entered into a new registered domestic partnership.

16. “Surviving spouse” means the surviving lawful wife or husband of any of the following, while a resident of this State, who has remained unmarried, i.e., widowed/widowed.

i. A citizen and resident of this State who died while on active duty in time of war in any branch of the Armed Forces of the United States, or

ii. A citizen and resident of this State who had active service in time of war in any branch of the Armed Forces of the United States and who died or shall die while on active duty in a branch of the Armed Forces of the United States; or

iii. A citizen and resident of this State who has been honorably discharged or released under honorable circumstances from active service in time of war in any branch of the Armed Forces of the United States.

17. “Tax year” means the particular calendar year in which the general property tax is due and payable.

18. “Veteran” means any citizen and resident of this State honorably discharged or released under honorable circumstances from active service in time of war in a branch of the Armed Forces of the United States.

19. “Veteran’s deduction” means the deduction against the taxes payable by any person allowable pursuant to P.L. 1963, c.171 as amended.

## SUBCHAPTER 2. CONDITIONS OF ELIGIBILITY AND QUALIFICATIONS

### 18:27-2.1 Character of the veteran’s property tax deduction

Veterans honorably discharged or released under honorable circumstances from active service in time of war, or the unmarried surviving spouses or surviving domestic partners of such veterans, are granted a tax deduction on the real property in which they have a legal interest.

### 18:27-2.2 Conditions of eligibility for the veteran’s property tax deduction

(a) Eligibility date - prerequisites must exist as of October 1 of pretax year.



(b) To qualify for the property tax deduction a veteran claimant must meet the following conditions as of October 1 of the pretax year:

1. be a citizen and resident of New Jersey;
2. possess an honorable discharge or release under honorable circumstances from active service in time of war in a branch of the United States Armed Forces pursuant to N.J.S.A. 54:4-8.11; and
3. own legal title to the claimed property or a fractional or partial ownership interest in the property.

(c) A surviving spouse or surviving domestic partner of a deceased veteran claiming deduction must meet the following conditions as of October 1 of the pretax year:

1. be the surviving lawful wife or husband or domestic partner of a veteran who was honorably discharged from active service in time of war in the United States Armed Forces and who was, at the time of death, a citizen and resident of New Jersey;
2. remain unmarried or did not enter into a new registered domestic partnership;
3. be a resident of New Jersey; and
4. own legal title to the claimed property or a fractional or partial ownership interest in the property.

(d) A surviving spouse or surviving domestic partner of a deceased serviceperson claiming deduction must meet the following conditions as of October 1 of the pretax year:

1. be the surviving lawful wife or husband or domestic partner of a serviceperson who dies while in active service in a branch of the United States Armed Forces in time of war and who at the time of death was a citizen and resident of New Jersey;

2. remain unmarried or did not enter into a new registered domestic partnership;

3. be a resident of New Jersey; and

4. own legal title to the claimed property or a fractional or partial ownership interest in the property.

(e) The law requires that the veteran have had “active service in time of war.” A claimant must clearly establish that the service performed was during one of the periods defined in N.J.S.A. 54:4-8.10(a). Assessors and collectors should carefully examine the service record (Form DD-214) to verify that service was performed in a statutory specified period and in a qualifying branch of the United States Armed Forces.

#### 18:27-2.3 Remarriage, new domestic partnership

(a) A veteran’s widow/widower loses the deduction on remarriage. Divorce of the second spouse does not restore the deduction, but an annulment does.

(b) A veteran’s domestic partner loses the deduction on entering a new registered domestic partnership. Termination of the new domestic partnership does not restore the deduction.

#### 18:27-2.4 Citizenship and residency in New Jersey

(a) “Citizenship” for the purposes of eligibility for the veteran’s deduction means State citizenship. United States citizenship is not required.

(b) “Residency,” means legal residency in New Jersey as defined in N.J.S.A. 54:4-8.10(f). The law equates “resident” with “domicile” which is that place one regards

as his/her true and permanent home. The burden of proving legal domicile in this State is upon the property tax deduction claimant. Absence from the State for a period of 12 months is “prima facie” evidence of abandonment of domicile. A claimant may overcome the presumption of abandonment due to absence from the State by producing convincing evidence that his/her domicile remains in New Jersey.

(c) “Surviving spouse or domestic partner of nonresident veterans and nonresident servicepersons,” constitutional and statutory provisions grant veterans’ property tax deductions to veterans or servicepersons who are legal residents of the State. The surviving spouse or domestic partner of a veteran or serviceperson, though himself/herself a New Jersey resident, is not entitled to deduction if the veteran, at the time of death, was not a legal resident of State.

#### 18:27-2.5 Honorable Discharge

(a) Veteran claimants must be honorably discharged or released from full time active duty under honorable circumstances to be eligible for the veteran’s deduction. All discharges except those indicated as “dishonorable,” “undesirable,” “bad conduct,” “by sentence of general court martial,” or other similar expression indicating that the discharge or release was not under honorable conditions, qualify the claimant for property tax deduction provided all other requirements are met.

(b) Military personnel in the armed forces of the United States who remain in continuous military service, do not qualify for the property tax deduction.

(c) Re-entry into the military service does not disqualify a claimant for the property tax deduction previously granted on the basis of a prior honorable discharge or discharge under honorable circumstances.

#### 18:27-2.6 Ineligible Discharge

(a) A disenrollment certificate or other form of release terminating temporary service in a military or naval branch of the Armed Forces on a voluntary and part-time basis without pay, or a release from or deferment of induction into active air, infantry or naval service should not be accepted as proof of honorable discharge.

(b) Clemency discharge is a “neutral discharge” according to the United States Department of Justice (“DOJ”). Although it is not “...less than honorable... it is something other than honorable. As such it does not meet the requirement of honorable discharge pursuant to the DOJ Internal Memo October 18, 1978.

#### 18:27-2.7 Branches of the Armed Forces of the United States

(a) “Branches of the Armed Forces of the United States” include but are not limited to:

1. Air Force
2. Army
3. Army Transport Command
4. Coast Guard
5. Marine Corps
6. Navy
7. Women’s Army Corps (As of July 1, 1943)

8. Regularly established women’s auxiliary units of the Coast Guard, Marine Corps, Air Force and Navy, together with nurses, when performing in active service with the above listed military service branches.

(b) Reserve unit personnel when detailed for and in active service in time of war  
with the above listed branches are as follows:

1. Air Force Listed Reserve Corps
2. Air National Guard of the United States
3. Coast Guard Regular Reserve
4. Coast Guard Reserve
5. Dental Reserve Corps of the Navy
6. Enlisted Reserve Corps
7. Marine Corps Reserve
8. Marine Corps Reserve Force
9. Medical Reserve Corps of the Army
10. Medical Reserve Corps of the Navy
11. National Naval Volunteers
12. National Guard of the United States
13. Naval Auxiliary Reserve
14. Naval Militia
15. Naval Reserve
16. Naval Reserve Force
17. Officers' Reserve Corps of the Air Force
18. Officers' Reserve Corps of the Army
19. Officers' Reserve Corps of the Navy
20. Organized Reserve
21. Public Health Service

22. Regular Army Reserves
23. Reserve Corps of the Public Health Service
24. Reserve Officers Training Corps
25. Students Army Training Corps
26. United States Maritime Services (Merchant Marines) during World War II
27. United States Army Transport Service Transportation Corps during World

War II

28. United States Naval Transportation Service during World War II

(c) The aforementioned is not a complete list of units deemed a "branch of the Armed Forces of the United States." Personnel assigned to certain units, though not branches of the Armed Forces, may qualify, provided the unit was detailed for active duty with the Armed Forces of the United States. Assessors and collectors should examine the service record portion of the discharge to ascertain whether the claimant served in such a unit. The following units may meet this criterion:

1. Naval Auxiliary Reserve
2. Students Army Training Corps
3. Air Force Enlisted Reserve Corps

#### 18:27-2.8 Ineligible Service Organizations and Individuals

The following organizations and individuals are not part of the Armed Forces of the United States:

- (a) American Red Cross
- (b) New Jersey State Guard
- (c) New Jersey State Militia

(d) Salvation Army

(e) Women's Army Auxiliary Corps (Prior to July 1, 1943)

(f) YMHA, YM-YWCA

(g) Civilian employees of the United States and civilians serving as part of civilian defense units, such as air raid precautions, auxiliary police, auxiliary fire service, and coast guard reserves.

(h) Members of Allied Forces such as the Canadian and Polish Armies are not eligible for the deduction.

#### 18:27-2.9 Ownership of legal title; fractional interests

(a) A claimant must hold legal title to the property for which the deduction is claimed or a fractional, i.e., partial ownership interest in the property. Where property title is held by a claimant and another, or others, as joint tenants or tenants in common, the interest of each tenant is treated as equal to that of the other, unless the deed specifically provides for unequal interests, except that where the claimant and other owner are registered domestic partners and own the real property as joint tenants with right of survivorship, each partner owns a full ownership interest so that either may qualify for the full property tax deduction if otherwise eligible. Where property title is held by husband and wife, as tenants by the entirety, each spouse owns a full ownership interest, so that either may qualify for the full property tax deduction if otherwise eligible. Each joint tenant, tenant-in-common or tenant by the entirety may claim a deduction on his or her proportionate share of property taxes.

(b) For property having multiple owners each veteran claimant is eligible for his full property tax deduction provided his proportionate share of the property taxes paid equals or exceeds the full deduction amount.

Example: Four qualified veterans own a residential condominium unit as tenants in common which they bought for an investment. They each have a one quarter interest. If the total annual property taxes are \$3,000, each has a tax obligation of \$750. Each, therefore, is entitled to a \$250 deduction. Net taxes due on the property are \$2,000.

18:27-2.10 Owners of life estates, life tenancy, lifetime rights

For purposes of the veteran's tax deduction, a vested life estate in real property meets the prerequisite of a qualifying ownership interest.

18:27-2.11 Owners under executory contract

A purchaser under an executory contract of sale who is in possession of land has a qualifying ownership interest for the deduction under N.J.S.A. 54:4-1 et seq., which provides "...An executory contract for the sale of land, under which the vendee is entitled to or does take possession thereof, shall be deemed, for the purposes of this act a mortgage of said land for the unpaid balance of purchase price..."

18:27-2.12 Owners as shareholders of cooperative or mutual housing corporations

Tenant shareholders in cooperatives (co-ops) or mutual housing corporations have been declared "owners" of the units based on their proportionate share of the taxable value of the real property pursuant to their interests in said associations or corporations. Tenant shareholders in cooperatives are entitled to the deduction based on their



proportionate share of taxes assessed against the real property pursuant to N.J. Constitution – Art. 8, Sec. 1, Par. 3 and N.J.S.A. 54:4-8.15 & 8.18.

18:27-2.13 Owners via partnerships

Eligibility for a veteran's property tax deduction extends to property, the title to which is held by a partnership, to the extent of the veteran claimant's interest in the partnership.

18:27-2.14 Owners via fiduciary arrangements

Eligibility for a veteran's property tax deduction extends to a guardian, trustee, committee, conservator or other fiduciary for any persons otherwise qualified for the tax deduction.

18:27-2.15 Ineligible ownership

Property title to which is held by a corporation is not eligible for the veteran's property tax deduction except that tenants who are shareholders of stock in cooperatives or mutual housing corporations are eligible for veteran's deduction.

18:27-2.16 Apportionment of deduction

The property tax deduction may be applied in any proportion to the real and/or personal property of the claimant.

18:27-2.17 Continuance of deduction

(a) A deduction once granted shall remain in effect from year to year without the need for claimant's refiling. However, the assessor may at any time request additional information in support of claimant's continued eligibility for the deduction.

(b) A deduction, established as of October 1 of the pretax year, prevails for the whole of the ensuing year regardless of any change in title which may occur at anytime during said tax year or in the instance of the claimant's death during said year.

18:27-2.18 Omitted and added assessments

The veteran's property tax deduction may be applied to taxes due on added or omitted assessments.

18:27-2.19 Apportionment between buyer and seller

There is no provision in statutory law for apportionment of the veteran's deduction upon sale of a property. This is a matter of negotiation between buyer and seller which might be adjusted or debited/credited at the closing settlement.

18:27-2.20 Aggregate veteran's deduction

One full deduction of \$250 is the maximum amount allowed any property tax deduction claimant except where a qualified veteran claimant is also eligible for a deduction as a qualified surviving spouse or surviving domestic partner of a veteran or serviceperson. In such cases two deductions of \$250 each for a total of \$500 may be allowed.

18:27-2.21 Veteran's deduction and senior/disabled deduction

Where a veteran's deduction is granted to a claimant who also qualified for the \$250 deduction for senior citizens, age 65 years or over, permanently and disabled persons or their surviving spouses or surviving domestic partners, age 55 years or over, the \$250 veteran's deduction shall apply in addition to this other benefit.

18:27-2.22 Veteran's deduction and disabled veteran exemption

Statutory law provides that the \$250 veteran's deduction shall be in addition to any other veteran deduction or exemption. Therefore, a deduction claimant receiving a full exemption on his principal residence as a totally and permanently disabled veteran may apply the \$250 deduction to other property he owns in New Jersey.

#### 18:27-2.23 Timely application; disposition of claim not filed in time

A claim for deduction not filed with the assessor or collector within the times prescribed in N.J.S.A. 54:4-8.13 shall result in the loss of eligibility for the particular year. No application for any previous year shall be allowed by the assessor, collector or municipal governing body.

#### 18:27-2.24 Refund of taxes paid

Where an application is approved by the collector during the tax year and the deduction exceeds taxes already paid, the governing body in its discretion, may permit a refund, without interest upon request by the claimant, but no refund may be granted for any prior tax year in the absence of a prior completed application on file.

#### 18:27-2.25 Appeals

An aggrieved taxpayer may appeal from the disposition of a claim for the veteran's property tax deduction in the same manner as is provided for appeals from assessments generally. Disallowance of a claim at a time too late to permit an appeal by April 1 of the tax year entitles an applicant to file with the county tax board of taxation anytime on or before April 1 of the ensuing tax year.

### SUBCHAPTER 3. APPLICATION FOR DEDUCTION

#### 18:27-3.1 Written claims for deductions

All claims for deductions must be submitted in writing to the assessor on forms V.S.S., and supplemental V.S.S., if applicable, as approved by the Director, Division of Taxation, and supported by attached photostatic copies of documents necessary to the proof of all conditions prerequisite to entitlement for deduction. Application forms should be available in the assessor's office.

#### 18:27-3.2 Application procedures

(a) The veteran's property tax deduction should not be allowed unless the claimant submits sufficient documentation to support the application. Copies of supporting documentation should be attached to each claim and retained by the assessor.

(b) Application may be filed with the municipal assessor on or before December 31 of the pretax year. Application may also be filed with the municipal tax collector from January 1 through December 31 of the calendar tax year.

(c) Where an application is approved during the tax year and the deduction exceeds the property taxes already paid, the municipal governing body may, in its discretion, permit a refund, without interest for the current tax year. However no application shall be allowed by the assessor, collector or municipal governing body for any previous tax year.

(d) Where application is made with and allowed by the tax collector, the collector must promptly transmit the application and all attached exhibits or a photostatic copy to the municipal assessor who must review it. If approved by the assessor, it shall have the same force as if originally filed with him.

(e) The assessor should maintain a complete file of all approved applications, together with attached supporting documents as described in N.J.A.C. 18:27-3.3. Applications verbally accepted in past years must be documented, accordingly.

18:27-3.3 Documentation in support of citizenship and residency

(a) For the veteran, New Jersey residency may be established by a valid New Jersey motor vehicle drivers license or registration, voter registration card, State tax return filing, post office verification, local memberships, children's school attendance, or other means satisfactory to the assessor;

(b) Surviving spouses/domestic partners

1. Surviving spouses of veterans, disabled veterans or servicepersons who died on active duty may establish their residency and that of the deceased spouse, when applicable, by submission of the certificate of eligibility rendered by the U.S. Veteran's Administration to qualified surviving spouses.

2. Surviving domestic partners of disabled veterans or servicepersons who died on active duty shall not be required to provide a certificate of eligibility, but the domestic partner must provide certificate of domestic partnership.

18:27-3.4 Documentation in support of active service in a branch of the Armed Forces in time of war

(a) A photostatic copy of an honorable discharge or release under honorable circumstances must be attached to every application and made a permanent part of the assessor's file. A copy of claimant's service record (Form DD-214) is usually also needed to determine whether the character of service was in fact "active service," the assigned unit was a branch of the United States Armed Forces and the period served was

in “a time of war.” This form can also aid in determining questionable cases in that it sets forth notations regarding “travel pay allowances,” “duty for training” and other factors helpful to a correct eligibility decision. In the event that a surviving domestic partner is not able to obtain a DD-214 form, other documentation showing the above facts may be acceptable, including a notarized affidavit establishing the existence of the above facts.

(b) For service in the Peacekeeping Missions, a claimant must have served in the aggregate for at least 14 days in the pertinent combat zone, except that where the claimant suffered a service-connected injury or disability in the combat zone, then active time served, though less than 14 days, is sufficient for property tax deduction purposes. Part of the prerequisite time may be shown by the following:

1. The required 14 days of active duty under this provision may be established by reference to certain key indices in the claimant’s Form DD-214;

2. To verify the required 14 days of service in a combat zone for Lebanon, Grenada, or Panama, a key indice would be “the Overseas Department Medal” which would appear in item #13 of claimant’s Form DD214 entitled “Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized”;

3. To verify the required 14 days of service in a combat zone for the Persian Gulf War, key indices are “S.W. Asia Service Medal” or “Overseas Service Ribbon” which would appear in item #13 of claimants form DD-214, together with the notation in item #18 stating, “participated in Operation Desert Shield/Storm from \_\_\_\_\_19\_\_\_\_ to \_\_\_\_\_19\_\_\_\_ under title 10 U.S.C. 673,”

4. The key indices noted in subparagraphs 1 and 2 above, may be read in conjunction with the dates provided in item #12 “Record of Service” to determine that the authorized awards occurred during the applicable periods designated “active duty in time of war.”

18:27-3.5 Documentation in support of honorable discharge or release

(a) Only an “honorable discharge” or “release under honorable circumstances” will qualify in support of all claims for the deduction. A copy of form DD-214, Certificate of Honorable Discharge, is the most common document.

18:27-3.6 Assistance to obtain certain documentation

Where necessary, a surviving registered domestic partner may seek the assistance of the New Jersey Department of Military and Veterans Affairs in obtaining any necessary documentation from the United States Department of Veterans Affairs so as to qualify for the veteran’s deduction.

18:27-3.7 Documentation in support of ownership of legal title:

(a) Claim for deduction must include documentation that the applicant owned legal title to the property for which the deduction is requested. The legal ownership interest for real property must relate to a freehold interest. A copy of the deed, executory contract for property purchase, probated will, or trust document may be accepted as proof of ownership.

18:27-3.8 Documentation in support of a surviving spouse/domestic partner

Surviving spouse/domestic partner must prove marriage or a registered domestic partnership to the deceased veteran or serviceperson, through whom the claim is made. A copy of the marriage certificate or domestic partnership registration certificate under

N.J.S.A. 26:8A-1 *et seq.*, and the veteran's death certificate is necessary. The fact that a surviving spouse has not remarried must be supported by the certification of the U.S. Veteran's Administration verifying claimant's status as a surviving spouse and other factors. In the case of a registered domestic partnership, the fact that a surviving domestic partner has not entered into a new registered domestic partnership must be supported by a certification from the agency issuing certificates of domestic partnership that the surviving domestic partner has not entered into a new registered domestic partnership.

#### 18:27-3.9 Refiling or Updating Application

A deduction once granted under this chapter remains in effect indefinitely. However, an assessor, at any time, may require any veteran deduction claimant to file a new application. Annually, as of October 1, the assessor should examine all deductions to determine whether any change has taken place with regard to residency, property ownership and marital status in the case of claims by the surviving spouses of servicepersons or veterans.

#### 18:27-3.10 Annual reimbursement of taxing districts for veterans' property tax deductions

The State shall annually reimburse each taxing district in an amount equal to 102 percent of the amount of any veterans' property tax deductions granted in that taxing district. However, should a deduction have been allowed in error by the municipality, it shall return the full reimbursement to the State. There shall be no statute of limitation on the right of the State to seek such return. Upon such return to the State, the municipality



may take whatever action the law allows to collect the deduction from the taxpayer who received it.

#### 18:27-3.11 Administering oaths

The Director, in his or her discretion is empowered to dispense with a sworn oath. However, where applicable each assessor or collector and his duly assigned assistants are authorized to take and administer the oath on any claim for the veteran's property tax deduction. There is to be no charge for taking any affidavit or preparing any required form.